

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CIVIL CASE NO. 5:20-cv-00164-MR**

**JONATHAN ANTHONY LEE TORRES, )**

**Plaintiff, )**

**vs. )**

**ERIC DYE, et al., )**

**Defendants. )**

**ORDER**

**THIS MATTER** is before the Court on the North Carolina Department of Public Safety's (NCDPS) sealed Notice [Doc. 23] regarding the Court's Request for Waivers of Service [see Doc. 20].

The pro se incarcerated Plaintiff brought this action pursuant to 42 U.S.C. § 1983 addressing incidents that allegedly occurred at the Alexander Correctional Institution. The Amended Complaint passed initial review on claims against Defendants Chris Biecker, Daniel Brown,<sup>1</sup> David Carroll, Russel Chester, Jeffrey Clawson,<sup>2</sup> Travis Delozier,<sup>3</sup> Eric Dye, Justin Franks,<sup>4</sup>

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<sup>1</sup> "FNU Brown" in the Amended Complaint. [Doc. 17 at 16].

<sup>2</sup> "FNU Clawson" in the Amended Complaint. [Doc. 17 at 12].

<sup>3</sup> "FNU Delozier" in the Amended Complaint. [Doc. 17 at 12].

<sup>4</sup> "FNU Franks" in the Amended Complaint. [Doc. 17 at 13].

Troy Morrison, Charles Moss,<sup>5</sup> Kenneth Poteat, Elizabeth N. Powell, and Daniel Turner. [Doc. 19]. Service waivers have been filed for all of these Defendants except for Defendant Powell, who is no longer employed at NCDPS. [Docs. 19, 24]. NCDPS has provided Defendant Powell's last known address under seal. [Doc. 23].

The Clerk will be directed to notify the U.S. Marshal that Defendant Powell needs to be served with the summons and Amended Complaint in accordance with Rule 4 the Federal Rules of Civil Procedure. If Defendant Powell cannot be served at the addresses provided by NCDPS, the U.S. Marshal shall be responsible for locating her home addresses so she may be served. See 28 U.S.C. § 1915(d) (in actions brought *in forma pauperis* under § 1915(d), “[t]he officers of the court shall issue and serve all process, and perform all duties in such cases”); Fed. R. Civ. P. 4(c)(3) (“At the plaintiff’s request, the court may order that service be made by a United States Marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed *in forma pauperis* under 28 U.S.C. § 1915....”).

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<sup>5</sup> “FNU Moss” in the Amended Complaint. [Doc. 17 at 16].

If the U.S. Marshal is unable to obtain service on Defendant Powell, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service. The U.S. Marshal shall not disclose Defendant Powell's home addresses to the *pro se* incarcerated Plaintiff and shall file any document containing such addresses under seal.

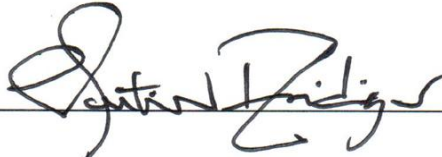
The Clerk of Court will be instructed to update the Court file with the Defendants' correct names as reflected in this Order.

**IT IS THEREFORE ORDERED that** the U.S. Marshal shall use all reasonable efforts to locate and obtain service on Defendant Elizabeth N. Powell. If the U.S. Marshal is unable to obtain service on the foregoing Defendant, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service.

**IT IS FURTHER ORDERED** that the Clerk is respectfully instructed to mail a copy of the Amended Complaint [Doc. 17], the Sealed Notice [Doc. 23], and this Order to the U.S. Marshal, and to substitute Defendants' names as follows in the Court's records: Daniel Brown for "FNU Brown;" Jeffrey Clawson for "FNU Clawson;" Travis Delozier for "FNU Delozier;" Justin Franks for "FNU Franks;" and Charles Moss for "FNU Moss."

**IT IS SO ORDERED.**

Signed: May 5, 2022

A handwritten signature in black ink, appearing to read "Martin Reidinger", written over a horizontal line.

Martin Reidinger  
Chief United States District Judge

